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DEPARTMENT OF LABOR & ECONOMIC GROWTH
LANSING

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Summary of Senate Bill 150 (As Introduced)

Topic: Building Official Competence
Sponsor: Senator Kuipers
Co-Sponsors: None listed
Committee: Senate Economic Development, Small Business and Regulatory Reform

Date Introduced: February 2, 2005

Date Enrolled:

Date of Analysis: February 7, 2005

The bill amends the Building Officials and Inspectors Registration Act to provide greater oversight of registrants under the act. The bill adds definition of several new terms used in the bill, including “censure”, “code change cycle”, “competence”, “good moral character”, “gross negligence”, “negligence” and “published interpretation.

New language is inserted in Section 4 permitting tests to be written, oral, practical, or a combination. Completion of approved educational or training programs may be substituted for appropriate tests or portions of tests.

The State Construction Code Commission would be prohibited under the bill from waiving or diminishing the experience requirements established by the act or rules for an applicant. Time periods established by the act or rules for filing an application or completing educational requirements may not be extended.

A new Section 8A lists behaviors that are subject to sanctions or penalties. These include:

- Practicing fraud or deceit to obtain registration.
- Practicing fraud, deceit, or dishonesty in performing duties.
- Failing to perform duties in a professional manner.
- Failing to perform duties in a timely manner.
- Failing to apply the code in a consistent and uniform manner.
- Failing to follow or enforce a published interpretation.
- Demonstrating a lack of good moral character.
- Demonstrating incompetence.
- Demonstrating negligence in the performance of duties.
- Committing an act of gross negligence in the performance of duties.
- Violating the act or rules.
- Violating a provision of the code.

- Committing an act that constitutes conflict of interest.
- Exercising poor judgment in the performance of duties.
- Excepting a gratuity or other valuable consideration for the performance of duties from someone other than the employing enforcing agency.
- Failing to comply with a subpoena.
- Failing to respond to a citation.
- Violating or failing to comply with an order issued by the disciplinary board created in the bill.
- Performing the duties of a building official, plan reviewer, or inspector without a valid registration.

A new Section 8B creates a disciplinary board to determine whether an individual has violated the act, a rule, or an order. The board consists of 33 members appointed by the Governor with the Advice and Consent of the Senate. Membership on the board is prescribed as follows:

- 3 registered building officials.
- 3 licensed residential builders.
- 3 registered electrical inspectors.
- 3 licensed electrical contractors.
- 3 registered plumbing inspectors.
- 3 licensed plumbers.
- 3 licensed plan reviewers.
- 3 licensed architects.
- 3 registered mechanical inspectors.
- 3 registered mechanical contractors.
- 3 members of the general public with knowledge and skill of the code. Only 1 public member may be affiliated with a labor organization.

The disciplinary board would be divided into 5 panels to hear complaints related to its part of the code. A member of the general public will chair each panel. The panels are divided as follows:

- Building code.
- Electrical code.
- Plumbing.
- Plan review.
- Mechanical.

Each panel is required to conduct its hearings in accordance with the Administrative Procedures Act and to render its written decision within 30 days after the hearing.

A new section 8C establishes complaint procedures. A complaint must be filed within 18 months after the alleged violation occurs. A copy of the complaint is required to be forwarded to the enforcing agency employing the respondent. The innocence of the respondent is presumed until the appropriate disciplinary panel holds a hearing and makes its findings of fact and conclusions of law. The respondent has the burden of refuting evidence presented by the

complainant. The enforcing agency employing the respondent may appear as a party of interest at any proceedings.

The sanctions that may be recommended by the disciplinary panel include the following:

- Censure.
- Placing limitations on a registration.
- Suspension.
- Revocation.
- Deny a future registration or deny registration for a stated period of time.
- Restitution and costs to complaint.
- A civil fine not to exceed \$10,000 per violation to be paid to the department.
- Probation.

The actual sanctions are determined by the department after review by the director.

A person acting as a building official, plan reviewer, or inspector without a valid registration is guilty of a misdemeanor. Penalties include a fine of up to \$5,000, imprisonment for not more than 93 days, or both.

A party or an interested person may appeal an order to the State Construction Code Commission with 10 business days after the director has issued the order. The appeal would be heard de novo. The decision of the disciplinary panel is considered final if not appealed to the Commission within the prescribed time and is considered an exhaustion of all administrative remedies.

Remedies in the bill are cumulative and independent. Use of 1 remedy by a person does not bar the use of other lawful remedies (e.g. filing suit in court).

A building official or inspector may not serve on a local zoning or planning board.

Registration fees would be equal to the per-year fee paid by the licensed occupation whose work is being inspected. This contrasts to the current \$10 annual fee in current law.